

520 Rec'd **PTO** 22 SEP 1999

EXPRESS MAIL NO.: EM167039332US
DATE OF DEPOSIT: September 22, 1999

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

In re Application of:

Michael S. Parmacek
Julian Solway

Group Art Unit: Unknown

29 NOV 1999

Examiner: Unknown

**Legal Staff
International Division**

Serial No.: PCT/US97/62101

Atty. Dkt. No.: ARCD:333/WIM

Filed: August 29, 1997

For: PROMOTER FOR SMOOTH MUSCLE
CELL EXPRESSION

REQUEST FOR REFUND OF FEES

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

On September 9, 1999, a Petition for Revival of an International Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) as well as a Transmittal Letter to the U.S. Designated/Elected Office were filed for the above referenced international application (Exhibits 1 and 2). Inadvertently, an incorrect International Application Number of PCT/US97/62101 was listed instead of the correct International Application Number of PCT/US97/16204 on both the Petition and the Transmittal letter. This incorrect number (PCT/US97/62101) was the original preliminary application number taken from the return receipt postcard for the PCT application filed on Aug. 29, 1997. PCT/US97/16204 is the

correct application number as finally assigned, as noted on the official correspondence from the PCT office.

To avoid any confusion occurring as the result of the incorrect Application No. appearing on the Petition and the Transmittal letter filed Sept. 9, 1999, we are refiling the Petition for Revival of an International Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) and a Transmittal Letter to the U.S. Designated/Elected Office with the correct referenced international application (Exhibits 3 and 4). We are therefore requesting a refund of the fees paid in the original filing, which included checks in the amount of \$1320.00 for the petition and \$2254.00 in filing fees, totaling \$3574.00. These fees may be refunded to Arnold White & Durkee Deposit Account No. 01-2508/ARCD:333/WIM.

It is believed that no fee is due; however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason, the Assistant Commissioner is authorized to deduct said fees from Arnold White & Durkee Deposit Account No. 01-2508/ARCD:333/WIM.

Respectfully submitted,



Mark B. Wilson
Reg. No. 37,259
Attorney for Applicants

ARNOLD, WHITE & DURKEE
P.O. Box 4433
Houston, Texas 77210-4433
(512) 418-3000

Date: September 22, 1999

COPY

ARCD:330/WIM

**TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 371**

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

Unknown

INTERNATIONAL APPLICATION NO.
PCT/US97/62101INTERNATIONAL FILING DATE
August 29, 1997PRIORITY DATE CLAIMED
October 7, 1996

TITLE OF INVENTION

PROMOTER FOR SMOOTH MUSCLE CELL EXPRESSION

APPLICANT(S) FOR DO/EO/US

Michael S. Parmacek and Julian Solway

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1).
4. ☒ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2)).
 - a. ☒ is transmitted herewith (required only if not transmitted by the International bureau).
 - b. ☐ has been transmitted by the International Bureau.
 - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ A translation of the International Application into English (35 U.S.C. 371(c)(2)).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)).
 - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☐ have been transmitted by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☒ have not been made and will not be made.
8. ☐ A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 16 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A **FIRST** preliminary amendment.
☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and/or address letter.
16. ☒ Other items or information:
1) PCT Request; 2) Petition for Revival of an International Application; 3) Written Opinion; 4) International Search Report; and 5) International Preliminary Examination Report.

EXPRESS MAIL NO.: EM167039301US

DATE OF DEPOSIT: September 9, 1999

EM167039301US

U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 08/726,807	INTERNATIONAL APPLICATION NO. PCT/US97/62101	ATTORNEY'S DOCKET NUMBER ARCD:333/WIM
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17. <input checked="" type="checkbox"/> The following fees are submitted: Basic National Fee (37 CFR 1.492(a)(1)-(5)): Search Report has been prepared by the EPO or JPO..... \$ 930.00 International preliminary examination fee paid to USPTO (37 CFR 1.482) \$ 720.00 No international preliminary examination fee paid to USPTO (cu CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2)) \$ 790.00 Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$1070.00 International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(2)-(4) \$ 98.00 <div style="text-align: right;">ENTER APPROPRIATE BASIC FEE AMOUNT =</div>	CALCULATIONS PTO USE ONLY
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Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).		\$ 130.00
Claims	Number Filed	Number Extra
Total Claims	53 - 20 =	33
Independent Claims	7 - 3 =	4
Multiple dependent claim(s) (if applicable)		+ \$270.00
TOTAL OF ABOVE CALCULATIONS =		\$ 2254.00
Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity statement must also be filed. (NOTE: 37 CFR 1.9, 1.27, 1.28)		
SUBTOTAL =		\$ 2254.00
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).		\$.00
TOTAL NATIONAL FEE =		\$.00
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property		\$.00
TOTAL FEES ENCLOSED =		\$ 2254.00
		Amount to be refunded:
		\$.00
		charged
		\$.00

a. ☒ A check in the amount of \$ 2254.00 cover the above fees is enclosed.


b. ☐ Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. ARCD:333US/WIM. A duplicate copy of this sheet is enclosed.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

Mark B. Wilson
 ARNOLD, WHITE & DURKEE
 P.O. Box 4433
 Houston, TX 77057-2198
 (512) 418-3000



 SIGNATURE

Mark B. Wilson, Reg. No. 37,259

 NAME

PATENT APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

09/17/1999 WELAYBRO 00000007 09380928

01 FC:960	970.00 DP
02 FC:154	130.00 DP
03 FC:966	594.00 DP
04 FC:964	312.00 DP

09/17/1999 WELAYBRO 00000008 09380928

01 FC:198	354.00 DP
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